

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

21-CR-7

JOHN STUART,

Defendant.

**MOTION FOR AN EXTENSION OF TIME TO FILE RESPONSE
TO DEFENDANT'S SUPPLEMENTAL MOTION TO SUPPRESS**

PLEASE TAKE NOTICE that upon the annexed Affidavit of David J. Rudroff, Assistant United States Attorney, the undersigned hereby moves this Court for an extension of time to file its response to the defendant's supplemental motion to suppress and for a hearing (Doc. 89).

DATED: Buffalo, New York, April 21, 2023.

TRINI E. ROSS
United States Attorney

BY: s/DAVID J. RUDROFF
Assistant United States Attorney
United States Attorney's Office
Western District of New York
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UNITED STATES OF AMERICA,

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21-CR-7

JOHN STUART,

Defendant.

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

DAVID J. RUDROFF, being duly sworn, deposes and says:

1. I am an Assistant United States Attorney for the Western District of New York and am assigned to the prosecution of this matter. I offer this affidavit in support of the government's motion for an extension of time to file its response to the defendant's supplemental motion to suppress and for a hearing (Doc. 89). Defense counsel, AFDJ Jeffrey Bagley, has advised that he does not object to this motion.

2. On March 8, 2023, the parties appeared for oral argument on the defendant's motion to compel discovery. Dkt. 81. At oral argument, the government noted that the defendant had alleged grounds for suppression for the first time in reply and asked the Court to direct further briefing. The court directed that the defendant to file its supplemental motion to suppress by March 22, 2023. Dkt. 82.

3. On March 21, 2023, the defendant moved for an extension of time to file its supplemental motion with no objection from the government. Dkt. 83. The court issued a new scheduling order, and the defendant filed his supplemental motion to suppress and for a hearing on April 12, 2023. Dkts. 84 and 89. The government was to respond to the supplemental motion by April 19, 2023. Dkt. 84.

4. Due to an inadvertent calendaring error, the government did not respond to the motion on April 19, 2023. Upon realizing my mistake on April 21, 2023, I contacted defense counsel, AFD Bagley, and asked if the defendant objected to a retroactive adjournment of the government's response deadline to April 28, 2023—one week from the date of this motion. AFD Bagley stated that he had no objection.

5. As such, the government respectfully requests an adjournment of its deadline to respond to the defendant's supplemental motions (Dkt. 89) to April 28, 2023. For the same reasons discussed on the record on March 8, 2023 and incorporated into the Court's scheduling Orders (Dkts. 82 and 84), Speedy Trial Time is excludable pursuant to 18 U.S.C. §§ 3161(h)(1)(D) and 3161(h)(1)(H).

/s/DAVID J. RUDROFF

Assistant United States Attorney
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Subscribed and sworn to before me
this 21st day of April, 2023

s/ELIZABETH HARF, Commissioner Of Deeds
In And For The City Of Buffalo, New York.
My Commission Expires Dec. 31, 2024